

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
January 12, 2007 Session

JAY R. BAUMANN v. ROBERT S. WILLIAMS

**Appeal from the Circuit Court for Wilson County
No. 14152 John D. Wootten, Jr., Judge**

No. M2006-00962-COA-R3-CV - Filed November 13, 2007

This appeal involves the registration of a foreign judgment. A judgment creditor sought to enroll a judgment obtained in Virginia in the Circuit Court for Wilson County. The purported judgment debtor objected on the ground that the judgment was facially ambiguous with regard to which of the two defendants listed in the style of the case it applied. The trial court enrolled the judgment, and the judgment debtor has appealed. We have concluded that the judgment debtor's challenge to the judgment is misdirected. It is more properly directed to the enforceability of the judgment, rather than its enrollment or registration.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Circuit Court Affirmed

WILLIAM C. KOCH, JR., P.J., M.S., delivered the opinion of the court, in which FRANK G. CLEMENT, JR., J. and DONALD P. HARRIS, SR. J., joined.

S. Ralph Gordon, Nashville, Tennessee, for the appellant, Robert S. Williams.

R.W. Shick, Jr., Nashville, Tennessee, for the appellee, Jay R. Baumann.

OPINION

I.

Jay R. Baumann filed a suit on a note in the Circuit Court for Virginia Beach, Virginia against Robert S. Williams and John C. Williams. On July 26, 2004, a jury returned a verdict in Mr. Baumann's favor for \$175,000. On October 22, 2004, the Virginia trial court entered a judgment awarding Mr. Baumann \$175,000.00 plus interest accruing at the rate of 8% from August 31, 2002, \$7,480.50 in attorney's fees, and court costs.

On January 5, 2006, Mr. Baumann, through counsel, filed a notice in the Circuit Court for Wilson County, Tennessee seeking to register the October 22, 2004 judgment under Tennessee's Uniform Enforcement of Foreign Judgments Act [Tenn. Code Ann. §§ 26-6-101 through -107 (2000)]. The notice reflected Mr. Baumann's intention and desire to enforce and collect the judgment against Robert S. Williams, one of the two named defendants in the Virginia proceeding, who was living in Mount Juliet, Tennessee.

On February 15, 2006, Mr. Williams filed a Tenn. R. Civ. P. 12.02(6) motion to dismiss. He asserted that the Virginia litigation involved two defendants and that the judgment Mr. Baumann sought to register and enforce did not state “upon which [d]efendant judgment was entered.”¹ Mr. Baumann responded that the copy of the October 22, 2004 order was properly executed and authenticated in accordance with Tenn. Code Ann. § 26-6-104. On April 18, 2006, the trial court denied the motion to dismiss and allowed the enrollment of the foreign judgment. Mr. Williams appeals from the denial of his motion to dismiss.

II.

The trial court did not rule that the foreign judgment was not ambiguous or that it was enforceable. Rather, it simply determined that Mr. Williams had not provided a basis to prevent the enrollment of a foreign judgment. We conclude the trial court did not err by permitting enrollment of the foreign judgment.

The Restatement (Second) of Conflicts distinguishes between the recognition or enrollment of a foreign judgment and the subsequent enforcement of that judgment. It notes that “[a] foreign judgment is recognized . . . when it is given the same effect that it has in the state where it was rendered with respect to the parties, the subject matter of the action and the issues involved.” Restatement (Second) of Conflict of Law ch. 5, topic 2, introductory cmt., at 277 (1971) (“Restatement”).² In contrast, “[a] foreign judgment is enforced when, in addition to being recognized, a party is given the affirmative relief to which the judgment entitles him” or her. Restatement ch. 5, topic 2, introductory cmt., at 277.³ Recognition and enforcement of a judgment involve a two-step process; “[r]ecognition of a judgment is a condition precedent to its enforcement.” Restatement ch. 5, topic 2, introductory cmt., at 277.⁴

Tennessee’s Uniform Enforcement of Foreign Judgments Act provides a streamlined process for the recognition or enrollment of a foreign judgment and the enforcement thereof. The requirements for filing a foreign judgment are few and straightforward. *See generally Boardwalk Regency Corp. v. Patterson*, No. M1999-02805-COA-R3-CV, 2001 WL 1613892, at *4 (Tenn. Ct. App. Dec. 18, 2001) (No Tenn. R. App. P. 11 application filed). A person desiring to file a judgment must file a copy of the judgment that has been authenticated in accordance with Tennessee law. Tenn. Code Ann. § 26-6-104(a). Along with the authenticated copy of the judgment, the person

¹The Virginia court’s October 22, 2004 order refers to the “defendant,” rather than the “defendants” and does not specifically identify the “defendant” by name. However, a notation on the order regarding the objections apparently made during the trial states: “Objection to the Court’s factual finding that Defendant Robert Williams had notice as required by the Promissory Note and Agreements between the parties.”

²*See also Am. Fid. Fire Ins. Co. v. Paste-Ups Unlimited, Inc.*, 368 F.Supp. 219, 224 (S.D.N.Y. 1974); *Nat’l Union Fire Ins. Co. of Pittsburgh, Pa. v. Greene*, 985 P.2d 590, 593 (Ariz. Ct. App. 1999); *Sainz v. Sainz*, 245 S.E.2d 372, 375 (N.C. Ct. App. 1978).

³*See also Am. Fid. Fire Ins. Co. v. Paste-Ups Unlimited, Inc.*, 368 F.Supp. at 224; *Nat’l Union Fire Ins. Co. of Pittsburgh, Pa. v. Greene*, 985 P.2d at 593; *Sainz v. Sainz*, 245 S.E.2d at 375.

⁴*U.S. Mortgage v. Laubach*, 73 P.3d 887, 895 (Okla. 2003).

desiring to file a judgment must also file an affidavit containing the names and last known addresses of the judgment creditor and the judgment debtor. Tenn. Code Ann. § 26-6-105(a). Once these documents are filed, the clerk of the court in which they were filed must issue a summons to the judgment debtor. Tenn. Code Ann. § 26-6-105(b). If the judgment debtor makes no response after being served, the judgment creditor may, after waiting thirty days, simply enforce the judgment by execution or other means. Tenn. Code Ann. § 26-6-105(c).

While the Uniform Enforcement of Foreign Judgments Act creates a registration process that leads to enforcement, thereby tightly binding registration and enforcement, it does not eliminate the two-step nature of the process.⁵ In this vein, Tennessee courts have repeatedly recognized that enrolled or registered judgments remain subject to attack. This court has recently observed that “[o]nce a foreign judgment has been enrolled, it has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as a judgment of a court of record in Tennessee and may be enforced or satisfied in a like manner.” *First State Bank of Holly Springs, Miss. v. Wyssbrod*, 124 S.W.3d 566, 573 (Tenn. Ct. App. 2003).⁶

Permitting the enrollment of the Virginia judgment is not a determination that it is enforceable against Mr. Williams. Rather, the decision to allow enrollment reflects a conclusion that the document has been properly authenticated as a valid judgment from a sister state.⁷ On remand, Mr. Williams remains free to argue that the judgment is ambiguous. Such an argument does not challenge the validity of the Virginia judgment but instead is more properly addressed to the enforceability of the judgment as applied to Mr. Williams. The trial court did not reach the question of whether the judgment was enforceable against Mr. Williams. Accordingly, his appeal is premature.

III.

We affirm the order permitting the enrollment of the Virginia judgment and remand the case to the trial court for whatever other proceedings consistent with this opinion may be required. We

⁵See *In re Goodwin*, 325 B.R. 328, 330 (Bankr. M.D. Fla. 2005) (concluding that Florida’s virtually identical uniform enforcement foreign judgment scheme “contains a two step process: (1) recognition and (2) enforcement”).

⁶See also *Longphre v. Longphre*, No. E2006-00323-COA-R3-CV, 2007 WL 1214965, at *4 (Tenn. Ct. App. Apr. 25, 2007) (No Tenn. R. App. P. 11 application filed); *Bailey v. Sneed*, 49 S.W.3d 327, 329 (Tenn. Ct. App. 2001); *Brown v. Brown*, 29 S.W.3d 491, 494 (Tenn. Ct. App. 2000); *Coastcom, Inc. v. Cruzen*, 981 S.W.2d 179, 181 (Tenn. Ct. App. 1998).

⁷See *Nationwide Ins. Enter. v. Ibanez*, ___ S.W.3d ___, 2007 WL 64839, at *2 (Ark. 2007) (holding that the Uniform Enforcement of Foreign Judgments Act “requires only that the foreign judgment be regular on its face and duly authenticated to be subject to registration. Once a decree or judgment is accepted as proper for registration, then it becomes, in effect, an Arkansas judgment and will remain on the judgment books to be enforced by Arkansas in the future.”); *Lewis v. Roskin*, 895 S.W.2d 190, 199 (Mo. Ct. App. 1995) (“[R]egistration occurs when an authenticated copy of the foreign judgment is filed in the circuit clerk’s office.”).

tax the costs of this appeal to Robert Williams and his surety for which execution, if necessary, may issue.

WILLIAM C. KOCH, JR., P.J., M.S.